

COUNTY OF SAN DIEGO

ADMINISTRATIVE MANUAL

SUBJECT: DISCIPLINE & CITIZEN COMPLAINTS

ITEM
NUMBER **0080-04-09**

DATE: JUNE 27, 2011

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Purpose

To provide guidelines for adhering to Rule VII on discipline and citizen complaints.

Background

The Charter names the Commission as the County's primary appeals body, and as such, it is incumbent on the Commission to adopt detailed guidelines.

Policy

1. Appointing authorities and other employees should refer to the resource documents on discipline provided by DHR and County Counsel.
2. In the interest of economy and efficiency, the Commission will combine appeals on disciplinary actions in order to have one hearing before one hearing officer whenever possible. An example would be three employees in the same department, charged with the same or similar violations, given the same or similar discipline, and all employees are unrepresented or represented by the same person.
3. In the interest of continuity, the Commission may assign the same hearing officer to conduct hearings on similar cases emanating from related incident(s) during the same time period.
4. On occasion, the Commission may direct that an outside hearing officer or body hear the case. The Commission must (1) vote on the outside hearing officer's/body's report as a final decision on behalf of the Commission, (2) review a transcript of all testimony presented during the hearing and all records received into evidence and make its own findings of fact and decision, or (3) hold a hearing itself or assign one of its members to conduct a hearing.
5. Based on the provisions of Charter Sections 907 and 907.1, the Commission may, after completion of an investigation, recommend that the appointing authority take whatever action against individuals, he/she deems appropriate as a result of information in the investigation report and any other information the appointing authority may have. The Commission will advise the CAO and/or Board of Supervisors of that recommendation per Charter Section 904.5.
6. In cases where an appellant requests an extended delay in the hearing, the Commission may request the appellant to waive any right to back pay for that period of time if the appellant is successful in the hearing. Such cases are, of course, judgment on the part of the Hearing Officer, but all circumstances will be taken into consideration.
7. At the time appointing authorities notify the Commission of a disciplinary action, detailed supporting data that is normally submitted at the hearing as evidence should be withheld from the Commission until the time of hearing.
8. Appointing authorities are advised that Skelly notices should not be filed with the Commission when initially served on the employee. Appointing authorities do not need to submit any material to the Commission until a final decision is made to order discipline. At that time the appointing authority should send to the Commission a copy of

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the notice of intent, proposed order, final order, and proofs of service, along with a sealed envelope containing a list generally describing all the materials that the employee was given an opportunity to examine. The list shall be initialed by the employee when the employee has in fact examined and/or received the materials prior to the imposition of discipline. Read Rule 7.2.1 for further details.

9. Employees and employee organizations are advised that responses to Skelly Notices are not to be filed with the Commission, but directly with appointing authorities.
10. It is an official policy of the Commission that a County Counsel deputy or contractor may represent the Hearing Officer in a given hearing and another County Counsel deputy may represent the appointing authority. Such a policy is deemed legal and appropriate. However, if a Hearing Officer determines that any given representation constitutes a potential conflict of interest, the matter will be resolved at or prior to the hearing, or he/she will return to the full Commission for action.
11. Normally, completed reports on hearings will not be made available to the full Commission until they are sent to Commissioners for discussion in Closed Session. However, a Hearing Officer is not precluded from discussing matters related to the hearing with other Commissioners individually prior to the day of open meeting when expert advice or input is needed to clarify issues, format, or historical information on similar cases.
12. Charter Section 904.2 and CSC Rule 7.10 provide for charges by a citizen against any person in the classified service. If such charges are received by the Commission, the following procedure will be followed: (a) In every case where it is practical the charges will be referred to the appropriate appointing authority for any action. If discipline is given and then appealed to the commission, it would be heard just as in any other appealed disciplinary action; (b) If it is not practical to refer the charges to the appointing authority, or if the Commission determines that the appointing authority's actions or non-actions are not appropriate, the Commission may conduct a hearing, or investigate the matter under the provisions of Charter Section 907 and Rule XI. If a hearing is conducted, the citizen shall have the burden of proof.

Approved:



Walter F. Ekard
Chief Administrative Officer

Responsible Department(s):

Civil Service Commission (Approved 6/1/2011)

Concurring Department(s):

Department of Human Resources